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REMARKS

Claims 15 and 20 have been amended. Claims 36-38 have been added. Claims 1-21 and 32-38 are pending in the application. Favorable reconsideration and allowance of this application is respectfully requested in light of the foregoing amendments and the remarks that follow.

1. Claim Objections

The Examiner has objected to claim 20 because of an extraneous dash in line 8. The dash was, in fact, a redlined strike-out mark intended to remove an extra space in line 8. No amendment is believed to be necessary to remove redline marks that are accidentally confused for typographical errors.

2. Claim Rejections Under 35 U.S.C. § 112

The Examiner has rejected claim 20 for use of the phrase "said reinforcing strip" without proper antecedent basis. Claim 20 has been amended to correct the error by adding "reinforcing" before "strip" in line 8, where the strip is first introduced in the claim.

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3. Claim Rejections Based on the Prior Art

a. Recapitulation of the Invention¹

The invention relates to a composite bag such as a so-called “half and half” bag having a first side wall formed at least in part from a synthetic resin mesh material and a second side formed from a synthetic resin film material. A reinforcing strip extends horizontally along the upper end portion of the mesh side wall of the bag. The reinforcing strip overlaps the upper edge of the first side wall such that it is joined to the first side wall through a horizontal seam positioned well beneath the top edge of the reinforcing strip to form an extension that protrudes well above (e.g., 1/2 inch to 1-1/2 inches or even considerably more, such as several inches or more) the upper edge of the mesh side wall. In order to strengthen the seam at the sides of the bag, the side edges of the reinforcing strip are joined to the second, film side wall along at least most of the vertical extent of the extension. This film-to-film bond is considerably stronger than a bond through an intermediate mesh layer, as occurs along the remainder of the side seams of the bag. In addition, the relatively long extension provides an improved contact point for suction cups or other equipment used on automated bag filling equipment to open a bag during a bag filling process.

¹ This Section 3a is intended to provide the Examiner with some background information on the state of the art and applicant's contribution to it. It is *not* intended to distinguish specific claims from the prior art. That task is performed in Sections 3b and 3c below.

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b. Rejection of Claims for Anticipation

The rejection of claims 1 – 4 and 8 under 35 U.S.C. §102(e) as being anticipated by Fox et al. (U.S. Patent No. 6,625,570) is respectfully traversed. Fox does not disclose each and every element of claims 1 – 4 and 9 and therefore can not be said to anticipate those claims.

Fox is concerned not with reinforcing a composite bag but with providing a drawstring for such a bag. Hence, the base bag includes mesh and film sidewalls 10 and 12 and a reinforcing strip 70 that does *not* extend above the tope of the mesh sidewall 10 (see Fig. 5). To this bag fox adds draw sleeves F and S. These draw sleeves are not reinforcing strips within any acceptable sense of that term. Nor is the reinforcing strip 70 configured as claimed.

Specifically, Figures 5, 7, and 8 of the Fox disclosure show that, in each of the contemplated embodiments, the top edge of reinforcing strip 70 is conterminous with the top edge of mesh side 10. No “extension” is formed by the reinforcing strip, and without an extension as claimed, Fox cannot be said to anticipate claim 1. Also, because no extension is formed, film-to-film bonding between an extension and the film side is impossible. Fox actually teaches directly away from the claimed invention by disclosing an embodiment (Fig. 8) with a strip that extends above the top of the mesh wall 10 of the bag but that is bonded to the draw sleeve F, *not* to the mesh wall as claimed. This point is particularly important with respect to claims 15 and 20.

Finally, there is no direct film-to-film bonding in the Fox disclosure as is claimed in claim 1. Fox states that “In those areas of this overlapping scal portion where fiber strands of the open mesh of the mesh portion 10c are not present, the overlapping resin film wall

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portions...fuse directly together, enclosing the fiber strands between them.” U.S. Patent No. 6,626,570, Col. 6, lines 54 – 58. In other words, the reinforcing strip of the Fox disclosure is fused with the film wall *through a layer of mesh*. Although the fact that mesh is, by definition, apertured such that fusion can be accomplished between the reinforcing strip and the film wall *through the apertures*, this is not “direct film-to-film bonding” as required in the present invention. Because the fiber strands of the mesh of the Fox disclosure are sandwiched between the reinforcing strip and film wall, the seam is relatively weak. This very situation is discussed at length in the specification of the present application at page 4, lines 8 – 20. The present invention addresses seam weakness by, among other things providing an extension of the reinforcing strip beyond the mesh so that the reinforcing strip can be bound not only to the mesh wall, but also directly to the resin film wall.

For these reasons, the Fox reference does not disclose each element of claim 1 and cannot be considered anticipatory. Likewise, claims 2 – 4 and 8, which are dependent on claim 1, are not anticipated by Fox.

c. Rejection of Claims for Obviousness

i. Claims 5 – 7 and 11 – 14 over Fox

The Examiner has rejected claims 5 – 7 and 11 – 14 under 35 U.S.C. § 103 as obvious over the Fox reference. The Examiner has categorized the content of those claims, including dimensions of the seams with respect to the extension, the length of the extension, and the resulting seam strength, as a matter of design choice. Assuming without admitting that the

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Examiner is correct, each of the claims is nonetheless directly dependent on claim 1, which is not anticipated by the Fox reference as discussed above. Therefore the addition of “obvious design choices” can not invalidate the claims under § 103.

ii. *Claims 15, 16, 18, and 19 over Fox*

The Examiner states that “Fox teaches the claimed bag except is silent regarding specific dimensions for the height of the seams and overlap extension and the seam strength.” However, Fox does *not* teach the bag of claim 15. As discussed with respect to claim 1, Fox fails to disclose a reinforcing strip that overlaps the upper edge of the mesh side wall, forming an extension that protrudes above the upper edge of the mesh side wall. This means that the reinforcing strip of the Fox disclosure is fused with the film wall through a layer of mesh, not directly. Claim 15 requires an extension and direct fusion of the extension to the film wall. Without disclosing those elements, Fox combined with alleged design choice cannot be used to invalidate claim 15 or dependent claims 16, 18, and 19.

iii. *Claims 1 – 4, 20, and 32 over Nagel in view of Cammack*

The Examiner has rejected claims 1 – 4, 20, and 32, claiming that Nagel discloses a bag having a mesh side and a solid side, while Cammack discloses a mesh side and a reinforcing strip, applying the reinforcing strip to the mesh side, and directly bonding the reinforcing strip to the second, resin wall of the bag. Again, neither reference includes the extension that is clearly claimed in claims 1 and 20. And the Examiner’s construction of “direct,” which includes adhesion through another layer, is different from the one employed by the applicant for the

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purposes of these claims, which requires that there be no other layer, mesh or otherwise, dispersed between the reinforcing strip and the film side of the bag.

The purported reinforcing strip the Examiner discusses with respect to Cammack is actually an adhesive strip 42. The bottom side and sides of the produce bag 10 are sewn together to create the bottom part 20 of the bag structure, completely comprised of mesh. The top portion 30 is then added to the bag 10. The bottom portion 20 and top portion 30 are connected by adhesive strips 42. See col. 5, lines 3 – 17. Referring to Fig. 6 of the Cammack disclosure, it can be seen that strip 42 does not extend beyond walls 21, such that an extension portion is formed and direct attachment between strip 42 and upper surface 34 can be achieved. Rather, referring to Fig. 5, it can be seen that adhesive strip 42 is attached to wall surface 34 only through mesh wall 21. While the holes in mesh wall 21 allow for contact between adhesive 43 and surface 34, it cannot be said that adhesive strip 42 extends beyond the upper edge of wall 21 to form a direct bond with surface 34.

Neither Nagel nor Cammack discloses an extension of a reinforcing strip beyond the upper edge of the mesh wall as claimed in claims 1 and 20. Therefore the references cannot be used to invalidate the claims, either alone or in combination. Likewise for claims 2 – 4 and 32, each of which is dependent on claim 1.

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iv. Claims 5 – 7 and 11 – 14 over Nagel in view of Cammack

Each of claims 5 – 7 and 11 – 14 is dependent on claim 1. As discussed above, claim 1 is not obvious in light of Nagel in view of Cammack, therefore none of claims 5 – 7 and 11 – 14 can be considered obvious due to those references.

v. Claims 8 – 10 and 33 over Nagel in view of Cammack and Sorenson

Each of claims 8 – 10 and 33 is dependent, either directly or indirectly, on claim 1. Claim 1 is not obvious in light of Nagel and Cammack, as discussed above, and Sorenson does nothing to make up for the deficits of Nagel and Cammack. Sorenson discloses wicket openings in a bag, but none of the references discloses an extension, nor do they disclose direct attachment of such an extension to a film side of a bag without an intervening layer of mesh, both of which are required by claim 1. Therefore

vi. Claims 15, 16, 18, 19, and 34 over Nagel in view of Cammack

The same response given above in sections iii. and iv. applies to the Examiner's rejection of these claims. Claim 15, upon which all the other claims are dependent, clearly requires elements that are not disclosed in Nagel or Cammack, namely, an extension and direct bonding. Therefore, none of claims 15, 16, 18, 19, and 34 can be considered invalid in view of those references.

vii. Claims 17 and 35 over Nagel in view of Cammack and Sorenson

Claims 17 and 35 are dependent on claim 15, and claim 15, as discussed immediately above, is not invalidated by the combination of Nagel and Cammack. The addition of Sorenson

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does nothing to make up for the deficits of those references, and as a result, neither claims 17 nor 35 can be considered invalid under 35 U.S.C. § 103.

4. New Claims and Conclusion

New claims 36-38 depend from claims 1, 15, and 20 respectively, and further highlight the difference between a reinforcing strip and draw sleeves, which are formed from strips bent over themselves to form strip-receiving cavities as seen in the Fox patent.

It is submitted that claims 1-21 and 32-35 are in compliance with 35 U.S.C. §§ 102 and 103 and each define patentable subject matter. A Notice of Allowance is therefore respectfully requested.


Applicant hereby authorizes the Director to deduct from Deposit Account No. 50-1170 the amount of \$510 in payment of the fee associated with a request for a three-month extension of time by a small entity, which applicant hereby makes. Should the Examiner consider any additional fees to be payable in conjunction with this or any future communication, the Director is authorized to direct payment of such fees, or credit any overpayment to Deposit Account No. 50-1170.

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The Examiner is invited to contact the undersigned by telephone if it would help expedite matters.

Respectfully submitted,



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Date: January 12, 2005

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